

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
CIVIL CASE NO. 3:22-cv-00237-MR**

**KENDALL CHARLES ALEXANDER,)
SR.,)
)
Plaintiff,)
)
vs.)
)
U.S. DEPARTMENT OF JUSTICE,)
et al.,)
)
Defendants.)
_____)**

ORDER

THIS MATTER is before the Court *sua sponte*.

The pro se incarcerated Plaintiff filed this action pursuant to the Federal Tort Claims Act (FTCA) [Doc. 1] and, before the Complaint was reviewed for frivolity, he filed an Amended Complaint raising claims pursuant to Bivens v. Six Unknown Named Agents of the Federal Bureau of Narcotics, 403 U.S. 388 (1971) [Doc. 9]. On October 31, 2022, the Court dismissed the Amended Complaint on initial review and granted the Plaintiff 30 days to file a superseding Second Amended Complaint. [Doc. 10]. The Plaintiff was cautioned that, “[s]hould the Plaintiff fail to timely file a Second Amended Complaint in accordance with this Order, this action will be closed without further notice to Plaintiff.” [Id. at 5].

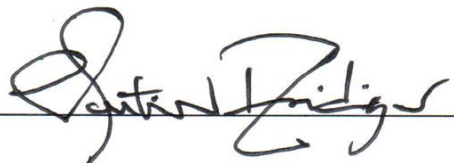
The Plaintiff has failed to file a Second Amended Complaint, and the time to do so has expired. The Plaintiff appears to have abandoned this action, and the Court is unable to proceed. This case will therefore be dismissed without prejudice. See Fed. R. Civ. P. 41(b) (“If the plaintiff fails to prosecute or to comply with these rules or a court order, a defendant may move to dismiss the action or any claim against it.”); Link v. Wabash R.R. Co., 370 U.S. 626, 630-33 (1962) (although Rule 41(b) does not expressly provide for *sua sponte* dismissal, Rule 41(b) does not imply any such restriction and a court has the inherent power to dismiss a case for lack of prosecution or violation of a court order).

IT IS, THEREFORE, ORDERED that this action is **DISMISSED WITHOUT PREJUDICE**.

IT IS FURTHER ORDERED that the Clerk of Court is directed to terminate this action.

IT IS SO ORDERED.

Signed: January 3, 2023



Martin Reidinger
Chief United States District Judge

